IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO.1690 OF 1985

New Era Fabrics (P) Ltd....Plaintiffs

Vs.

Bombay Municipal Corporation...Defendants

Mr. M.M. Vashi, for the Plaintiffs
Mr. K.N. Gaikwad, for the Defendants.

CORAM: F.I. REBELLO, J.
DATE : 1st September,2005

P.C.

1. The suit by the plaintiff is for a declaration that the disconnection orders (DCOs) Nos.593 to 600 issued by the Hydraulic Engineer of the Defendants are bad and illegal and against the provisions of the Bombay Municipal Corporation Act, 1888. Prayer clause (b) was for the relief that the defendants, their servants, agents and employees be restrained by an order of injunction of this Court from cutting off the water supply of the plaintiffs in any manner or from acting in furtherance of and/or from taking any other action under the said disconnection order Nos.593 to 600.

2. The defendants have not filed written statement. However, on behalf of the defendants their learned Counsel on instructions makes a statement that the water supply to the plaintiff has already been disconnected. If that be so, the cause of action would no longer survive and prayer clauses (a) and (b) are incapable of being granted.

3. During the pendency of the suit various Motions were taken out and orders passed by this Court from time to time. Pursuant to those orders the plaintiffs have deposited with

the defendants money towards water dues. In respect of such moneys which have already been paid the defendants will be entitled to adjust the amounts already paid. If inspite of the payment the defendants make any further claim on the plaintiffs that would be fresh cause of action in respect of which the plaintiffs will have independent cause of action for seeking whatever remedy they have in law and any order passed in the suit today will not stand in the way of the plaintiffs seeking relief against such action. It is also made clear that if it is the case of the plaintiffs that they have made excess payment it will be open to take such proceedings which they will be entitled to in law and disposal of the suit will not stand in their way. Considering the above, the following order:-

. As the cause of action no longer survives, suit dismissed. There shall be no order as to costs. Refund of Court fees as per Rules.

(F.I. REBELLO, J.)